

By: Shaheen

H.B. No. 4610

A BILL TO BE ENTITLED

AN ACT

relating to the emergency detention of certain persons with a mental illness or cognitive disability.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 573.0001, Health and Safety Code, is amended by adding Subdivision (3) to read as follows:

(3) "Cognitive disability" means a condition that places certain limitations on a person's mental functioning or skills. Cognitive disabilities include autism, Down syndrome, traumatic brain injury, and dementia.

SECTION 2. Section 573.001, Health and Safety Code, is amended by adding Subsections (i), and (j) to read as follows:

(i) Except as provided by Subsection (j), a peace officer who transports a person to a facility under Subsection (d) shall immediately transfer custody of the person to the facility.

(j) If the person transported under Subsection (d) commits an assault, as described by Section 22.01, Penal Code, against the peace officer during the transportation, the peace officer is not required to immediately transfer custody of the person to the facility.

SECTION 3. Section 573.012, Health and Safety Code, is amended by amending Subsections (b) and (d) and adding Subsections (d-1) and (j) to read as follows:

(b) The judge or magistrate shall deny the application

1 unless the judge or magistrate finds that there is reasonable cause  
2 to believe that:

- 3 (1) the person evidences mental illness;
- 4 (2) the person evidences a substantial risk of serious  
5 harm to the person [~~himself~~] or others;
- 6 (3) the risk of harm is imminent unless the person is  
7 immediately restrained; and
- 8 (4) the necessary restraint cannot be accomplished  
9 without emergency detention.

10 (d) The judge or magistrate shall issue to an on-duty peace  
11 officer a warrant for the person's immediate apprehension if the  
12 judge or magistrate finds that each criterion under Subsection (b)  
13 is satisfied. The judge or magistrate shall notify the applicable  
14 law enforcement agency of the warrant by:

15 (1) e-mail with the warrant attached as a secure  
16 document in a portable document format (PDF); or

17 (2) secure electronic means, including:

18 (A) satellite transmission;

19 (B) closed-circuit television transmission; or

20 (C) any other method of two-way electronic  
21 communication that:

22 (i) is secure;

23 (ii) is available to the judge or  
24 magistrate; and

25 (iii) provides for a simultaneous,  
26 compressed full-motion video and interactive communication of  
27 image and sound between the judge or magistrate and the agency.

1        (d-1) A law enforcement agency that receives a warrant  
2 issued under Subsection (d) shall serve the warrant as soon as  
3 practicable after the hour the agency receives the warrant.

4        (j) A court may not charge a fee in excess of \$25 for filing  
5 an application for emergency detention or for issuing a warrant  
6 under this subchapter.

7        SECTION 4. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2019.